

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On October 8, 2015 appellant, then a 47-year-old city carrier assistant, filed an occupational disease claim (Form CA-2) alleging that she sustained a leg condition causally related to walking in the performance of her federal employment. She stopped work on October 3, 2015.

By letter dated October 15, 2015, the employing establishment indicated that appellant had been working for only five weeks as a city carrier assistant, and challenged the claim based on causal relationship.

In a letter dated October 26, 2015, OWCP requested that appellant submit additional factual and medical evidence to support her claim for compensation. Appellant was afforded 30 days to submit this additional evidence.

Appellant submitted an October 26, 2015 note from Dr. Dane Wukich, a Board-certified orthopedic surgeon, who indicated that appellant was being treated for bilateral foot pain. In a note dated November 2, 2015, Dr. Wukich wrote that appellant was being treated for left posterior tibial tendinitis. He reported that she had been working with restrictions the prior four weeks, but could return to regular duty. Appellant also submitted a November 10, 2015 note from Dr. Wukich, which indicated that she was being treated for bilateral hallux rigidus and left posterior tibial tendon dysfunction.

Appellant submitted a November 12, 2015 response to questions posed by OWCP as to her claim. According to her, she walked many hours delivering mail.³ Appellant confirmed that her claim was based on continued incidents over more than one workday.

By decision dated December 23, 2015, OWCP denied appellant's claim for compensation. It found that the medical evidence of record was insufficient to establish a diagnosed condition casually related to factors of her federal employment.

On February 8, 2016 appellant requested a hearing before an OWCP hearing representative. She submitted a November 10, 2015 report from Dr. Wukich, diagnosing bilateral hallux rigidus, posterior tibial tendon dysfunction, and bilateral foot pain. Dr. Wukich reported that appellant had pain in both feet, and x-rays confirmed that she has osteoarthritis of the hallux metatarsophalangeal (MTP) joint bilaterally. He opined that appellant's "duties as a letter carrier aggravated her medical condition. Clearly appellant has an underlying arthritis." According to Dr. Wukich, she reported that she had no problems with her left lower extremity prior to starting work at the employing establishment.

A hearing was held on September 20, 2016. Appellant referred to an incident where she fell on uneven ground, but could not remember the date.⁴ She also indicated that she intended to

³ Appellant also described what appeared to a specific incident where she fell and twisted her foot, but she did not indicate when this occurred.

⁴ The hearing representative advised appellant that if she was claiming an injury from this incident, it would be a traumatic injury claim and a Form CA-1 could be submitted for that claim.

submit additional medical evidence, and the hearing representative advised appellant that the case would be held open for 30 days. No further evidence was received.

By decision dated December 5, 2016, the hearing representative affirmed the December 23, 2015 decision. She found that the medical evidence of record was insufficient to establish appellant's claim for compensation.

LEGAL PRECEDENT

A claimant seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.⁵

To establish that an injury was sustained in the performance of duty, a claimant must submit: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁶

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁷ A physician's opinion on the issue of whether there is causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁸ Additionally, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁹

ANALYSIS

In the present case, appellant filed a claim alleging that walking in the performance of her federal employment had contributed to foot and leg conditions. OWCP accepted that her employment as a city carrier assistant involved walking.

Dr. Wukich diagnosed bilateral hallux rigidus, and posterior tibial tendon dysfunction. In the November 10, 2015 report, he opines that appellant's employment aggravated her condition. Dr. Wukich did not provide a complete factual and medical history. A medical report is

⁵ 20 C.F.R. § 10.115(e), (f) (2005); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁶ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁷ *See Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁹ *Id.*

insufficient to establish appellant's claim if the report is not based on a complete factual history. Dr. Wukich related in his November 2, 2015 report that appellant had worked with restrictions for the prior four weeks, but he never provided a history which related that appellant had only worked as a city carrier for five weeks prior to October 8, 2015.¹⁰ He did not demonstrate an understanding of appellant's work duties, or discuss her employment history. Dr. Wukich's opinion that work duties aggravated appellant's condition is not accompanied by sound medical rationale.¹¹ As such his opinion is of diminished probative value.

Furthermore, Dr. Wukich indicated that appellant had arthritis which was aggravated by her work duties. He did not however discuss in any detail the preexisting condition. The Board has long held that medical conclusions unsupported by rationale are of diminished probative value and are insufficient to establish causal relation.¹² An opinion with respect to aggravation must differentiate between the effects of the work-related injury or disease and the preexisting condition.¹³ The Board has held that the physician must clearly explain the nature and extent of any aggravation, including whether temporary or permanent.¹⁴ The reference to appellant reporting she did not have problems with her left lower extremity prior to working at the employing establishment is not sufficient medical rationale. The Board has held that without supporting rationale, an opinion that a condition is causally related to an employment injury because the employee was asymptomatic before the injury, but symptomatic after it, is insufficient to establish causal relationship.¹⁵

It is appellant's burden of proof to establish her claim. The Board finds appellant has not submitted sufficient evidence to meet her burden of proof in this case.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish an injury causally related to factors of her federal employment.

¹⁰ A.E., Docket No. 16-1803 (issued February 2, 2017).

¹¹ *Id.*

¹² See O.L., Docket No. 16-616 (issued October 24, 2016).

¹³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(e) (January 2013).

¹⁴ See R.H., Docket No. 15-1785 (issued January 29, 2016).

¹⁵ See *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996) (because the employee is symptomatic after an injury is not sufficient to establish causal relationship without supporting rationale).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 5, 2016 is affirmed.

Issued: June 1, 2017
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board